

REMARKS/ARGUMENTS

Claims 1-26 and 70-102 were pending in this application and examined.

Applicant has canceled claims 1-26 and 102 without prejudice and preserves the right to submit these claims in continuing applications. Claims 70-101 remain pending in this application after entry of this amendment.

TELEPHONE INTERVIEW

Applicant would like to thank Examiner Salad for the telephonic interview regarding this application conducted on September 7, 2006. The arguments provided below reiterate the arguments discussed with the Examiner during the telephonic interview.

A "Statement Of Substance Of Interview" is being filed along with this amendment response.

IN THE CLAIMS

Claims 1-26 and 70-102 are rejected under 35 U.S.C. 102(e) as being anticipated by Logan, et al., (U.S. Patent No. 6,578,066) (hereinafter "Logan").

Claims 1-26 and 102

Applicant has canceled claims 1-26 and 102 without prejudice and preserves the right to submit these claims in continuing applications.

Claims 70-85, 91-95, and 100-101

As pointed out to the Examiner during the telephonic interview, claim 70 recites storing, in a load balancing switch, round trip time between a host server site and a client machine. The load balancing switch uses this round trip time to order a plurality of network addresses in response to a query regarding a domain name. This is recited in claim 70 as follows:

storing, in a load balancing switch of the data network, round trip time data, wherein the round trip time data is a time for exchanging at least one message between a first host server site switch of the data network and a first client machine of the data network;

ordering, in the load balancing switch, a plurality of network addresses, the network addresses being responsive to a query regarding a domain name, wherein the load balancing switch is capable of ordering the plurality of network addresses based, at least in part, on the round trip time data. (Applicant's claim 70, emphasis added).

Applicant submits that Logan does not teach or suggest the concept of a round trip time between a host server site and a client machine, and the use of such a round trip time, as recited in claim 70.

The Office Action asserts that col. 5 lines 3-18 and col. 6 lines 30-41 of Logan teaches a round trip time as recited in claim 70. Further, the Office Action asserts the col. 9 lines 12-35 and tables I and II in Logan teach that the round trip time is used to order a plurality of network addresses. Further, in disagreeing with Applicant's arguments in the previous response, Examiner states in the Office Action:

Examiner respectfully disagrees, because Logan discloses client 102 requests are handled by the distributed-server switch 106 and off-loaded from the other possible switches 108 and 110. The client requests are directed a list of the available servers according to currently measure response times and throughputs. Those servers that are the healthiest, more closely located, and showing good response times and throughputs should have more of the traffic directed to them. Thus, by directing client requests to host servers closely located to the client, the response time measured includes the exchange of message between the client 102 and the host server.

Applicant submits that Logan only teaches round trip response times between server sites and not between a server site and a client machine, as recited in claim 70.

Tables I and II in Logan show response times between server sites A-F – not between a client machine and a server site. The rows and columns in Table I of Logan identify server sites A-F and the table entries show response times from one server site to another server site. The fact that the response times are between server sites is further reiterated in col. 6 lines 30-41 of Logan that describes how response times between a site (distributed server switch 202) and its remote servers are used to determine a priority between preferred hand-off sites.

Accordingly, Applicant submits that this section of Logan fails to teach a response time between a host server site and a client machine, as recited in claim 70.

Further, in col. 5 lines 3-18, Logan describes that, in addition to response times between the server sites, Logan also determines server sites that are geographically proximate to a client so that servers that are more geographically closely located to clients should have more traffic directed to them. However, in Logan, determining the geographical proximity of a server site to a client does not involve determining any response times between the client and the server site. Instead, in Logan, the geographical location of a server with respect to a source of a domain name server request is determined by examining the source IP-address of the request and information from IANA as described in col. 10 of Logan. Thus, Applicant again submits that Logan does not teach a round trip time between a host server site and a client machine, as recited in claim 70.

Furthermore, Applicant submits that the fact that Logan has to perform location proximity analysis using IP source address and IANA information confirms that Logan does teach round trip time between a client and the host server site switch. Since, if Logan had been able to determine a round trip time between the client and the host server site switch, then that would have provided a better measure for determining which server to handle the DNS request rather than the source IP-address analysis described in Logan.

In light of the above, Applicant submits that claim 70 is not taught or suggested by Logan.

Further, Applicant submits that claims 71-85 that depend from claim 70 are also patentable for at least a similar rationale as discussed above for claim 70. The dependent claims are also patentable for additional reasons.

Applicant further submits that independent claims 91 and 100 are also allowable over Logan for at least a similar rationale as discussed above for claim 70. Claims 92-95 and 101 that depend from claims 91 and 100 respectively are also patentable for at least a similar rationale as discussed above for the allowability of the independent claims from which they depend. The dependent claims are also patentable for additional reasons.

Claims 86-90 and 96-99

Applicant submits that claim 86 is not taught or suggested by Logan. For example, claim 86 recites:

selecting, from a plurality of network addresses responsive to the request, a best network address based, at least in part, on which of the plurality of network addresses has been least recently selected by the load balancing switch as a best network address in response to previous queries. (Applicant's claim 86, emphasis added)

As recited above in claim 86 and pointed out to the Examiner during the telephonic interview, a best network address is selected based, at least in part, on which network address from the plurality of network addresses has been least recently selected as the best network address in response to previous queries. Applicant submits that this concept recited in claim 86 is not taught or suggested by Logan.

The Office Action points to col. 5 lines 46-59 and tables I-IV in Logan as teaching the "selecting" feature recited in claim 86. Applicant however submits that neither this section of Logan nor the tables teach the "selecting" feature of claim 86.

Col. 5 lines 46-59 of Logan teaches how a domain name server responds to DNS requests for VIP sites. The section states:

When the switch receives a domain name server Name Request to resolve "www.alteon.com", associated with a VIP, it will respond with an appropriate domain name server response that matches the "best site" to respond to the subsequent content requests. Such best site, for example, represents the one that imposes minimum delays on the greatest [sic] numbers of users. Other criteria are possible, such as defining the best site to respond as the one that is the least costly. (Logan: col. 5 lines 50-59, emphasis added)

This section teaches that in Logan the selected "best site" is one that imposes the minimum delays on the greatest number of users or one that is the least costly. As explained to the Examiner during the telephonic interview, the selection techniques described in the above-identified section of Logan are substantially different from selecting a best network address based in part upon which network address has been least recently selected in response to previous queries, as recited in claim 86. Selecting a best site that is least costly, as described in Logan, has nothing to do with selecting a network address that has been least recently selected in

response to previous queries. Further, selecting a best site that imposes minimum delays, as described in Logan, is based upon response times between the server sites and does not teach or imply that the best site is the least recently selected address, as recited in claim 86.

With respect to Tables I-IV in Logan, Applicant submits that these tables depict how response times between the server sites are used for selecting a best site. Table I represents response times between different sites in a network from each site's point of view (Logan: col. 7 lines 24-35). Tables II, II, and IV depict a methodology for using response times of Table I to determine a best site for handling a request (Logan col. 7 line 54 – col. 8 line 45). However, using response times to select a best site is completely different from selecting a best network address based in part upon which network address has been least recently selected in response to previous queries, as recited in claim 86.

In light of the above, Applicant submits that Logan does not teach or suggest anything related to the "selecting" step recited in claim 86. Applicant thus submits that claim 86 is patentable over Logan for at least the reasons stated above.

Further, Applicant submits that claims 87-90 that depend from claim 86 are also patentable for at least a similar rationale as discussed above for claim 86. The dependent claims are also patentable for additional reasons. For example, claims 87 and 88 recite round trip time data where the round trip data is the time for exchanging a message between a host server site switch and a client machine. As previously discussed, Applicant submits that Logan does not teach or suggest teach such a round trip time concept (see arguments previously provided for claim 70). Accordingly, claims 87 and 88 are patentable for this additional reason.

Applicant submits that independent claim 96 is patentable for at least a similar rationale as discussed above for claim 86. Claims 97-99 that depend from claim 96 are also patentable for at least a similar rationale as discussed above for claim 96. The dependent claims are also patentable for additional reasons.

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PATENT

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,

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